



FREDERICK COUNTY PLANNING COMMISSION

May 8, 2013

TITLE: **Westview South Series 100 Preliminary Plan**

FILE NUMBER: **S-905, AP 13359, APFO 13348, FRO 13349**

REQUEST: **Preliminary Plan**
The Applicant is requesting a revision to a previously approved Preliminary Plan in order to reconfigure the site into 6 commercial lots within an approved Mixed Use Development (MXD), on a 9.84-acre site

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the south west corner of MD 85 and Executive Way

TAX MAP/PARCEL: Tax Map 86, Parcel 269

COMP. PLAN: Office/Research Industrial

ZONING: Mixed Use Development

PLANNING REGION: Frederick

WATER/SEWER: W-3/S-3

APPLICANT/REPRESENTATIVES:

APPLICANT: Matan Companies

OWNER: Matan Companies

ENGINEER: Harris, Smariga & Associates, Inc.

ARCHITECT:

ATTORNEY:

STAFF: Tolson DeSa, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

Exhibit 1-Westview South 100 Series Preliminary Plan Rendering

Exhibit 2-Westview South Office/Research Center APFO Letter of Understanding 2/12/03

Exhibit 3-Panhandle Modification for Lots 110 and 111

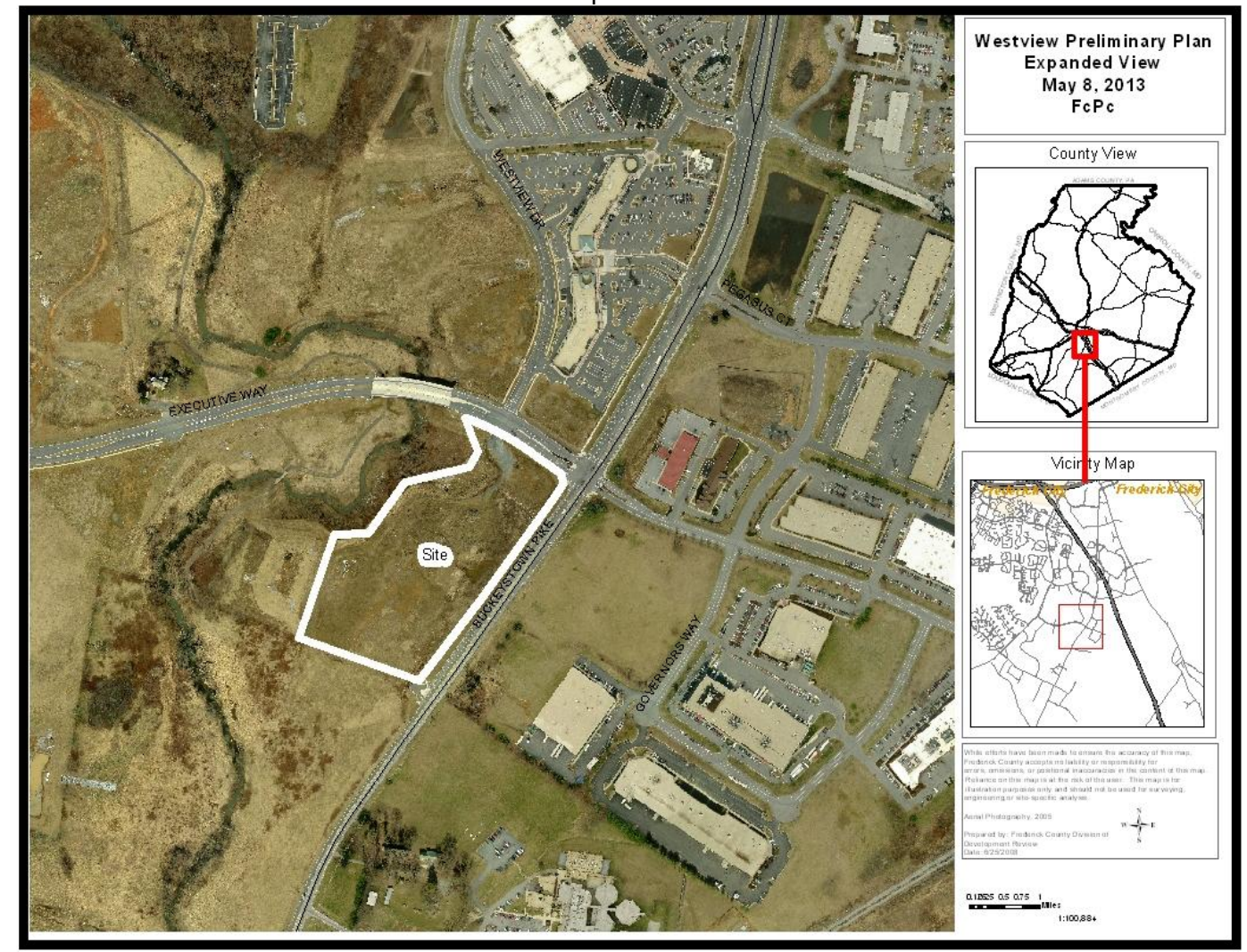
STAFF REPORT

ISSUE

The Applicant is requesting preliminary plan subdivision approval for 6 commercial lots on 9.84 acres. The proposed Preliminary Plan is a revision to the existing 5-lot configuration approved for Lot 102 and includes a shared private drive.

The proposed private drive gains access from Executive Way (a minor arterial road), which connects MD 85 with New Design Road. The proposed private drive will be Westview Drive (extended) and will terminate in a shared drive that will run east/west, between the Westview property and the Russell property. See Graphic #1 below.

Graphic #1



BACKGROUND

Overview: On February 12, 2003 the Frederick County Planning Commission (FCPC) reviewed and approved a Preliminary Plan for 31 MXD lots on 200.7 acre tract. The FCPC reviewed this item in July and October of 2002 as an informational item.

Rezoning: In 1994 the Board of County Commissioners (BOCC) granted the MXD Floating Zone classification for the 377-acre Westview development that included acreage that is the subject of the current proposed Preliminary Plan application. The 1994 re-zoning contained a residential component. A small portion of land on the northern portion of Westview is partially built with townhouses however; the larger bulk of the residential component was located on the southern portion of the Westview development. That southern residential portion was removed in 2001 by the BOCC. The conditions of re-zoning were also amended with the 2001 re-approval (Ordinance 01-15-289 CASE # R-00-02).

The overall Westview South MXD is currently under review for an amendment to the existing Phase I approval. The request is to include a residential land use component (615 dwelling units), and to rezone an additional 9.33 acres from Limited Industrial (LI) to MXD. Although the site of the proposed Preliminary Plan is included in the Westview South Phase I amendment, no changes in zoning or land uses are proposed for the site. The Phase I amendment will be reviewed by the Board of County Commissioners at a public hearing on May 21, 2013.

Several conditions were attached to the original 1994 rezoning to MXD, which were then amended in 2001 (ordinance 01-15-289) and remain in effect for the existing Phase I plan and the proposed Preliminary Plan. Several of these conditions have been satisfied as the overall MXD project has moved forward through the development process. However, in addition to transportation improvements outlined in APFO documents, conditions from ordinance 01-15-289 that are relevant to the proposed Preliminary Plan have been provided below:

7. Architectural review of the commercial office areas shall be required by the Planning Commission at the time of site plan approval. This architectural review shall be to ensure compatibility with the existing and surrounding neighborhood and for compliance with the purpose and objectives of this ordinance and the Mixed Use Development District as stated in sec. 1-19-324 of the Frederick County Code.

F. The Frederick County Planning Commission as part of site plan approval in order to ensure that the objectives of the MXD zoning district are met must approve the type of commercial retail uses.

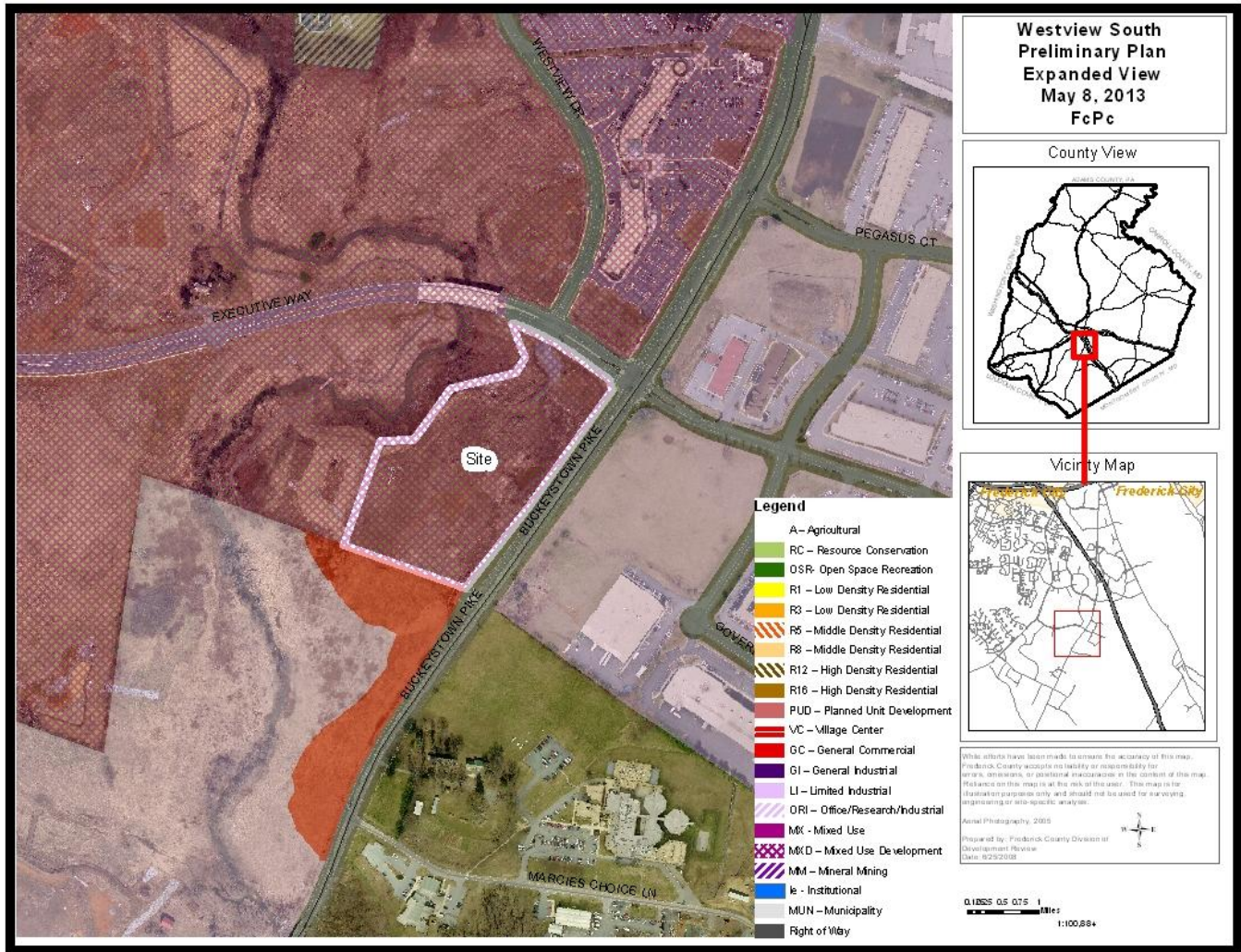
G. The architectural design theme of the commercial retail area must be submitted to the Frederick County Planning Commission for review and approval concurrent with any site plan approval.

The site of the proposed Preliminary Plan is currently vacant, zoned Mixed Use Development (MXD), and is designated for commercial development on the approved Westview South Phase I plan.

As provided in the Transitional Provision for MXD developments in section 1-19-10.500.11, an existing MXD with Phase I and partial Phase II approval (subdivision but not site development plan), would comply with the Phase II provisions in the existing zoning ordinance. Therefore, the development of the proposed lots 106 through 110 are subject to current site plan review criteria in section 1-19-10.300 through 1-19-3.300.4 as well as section 1-19-10.500.9 of the current MXD regulations within the zoning ordinance.

The property to the north and west of the site is vacant and also zoned MXD with approval for the Westview South Office/Research Center. See Graphic #2.

Graphic #2



The 2003 approved Preliminary Plan shows five lots on the site that is the subject of the current application. The approved Preliminary Plan was signed in April 2005, and the APFO Letter of Understanding was signed by all parties in September 2005, see Exhibit #2.

The approved Preliminary Plan, with a total of 31 lots was granted a three-year period with an expiration date of February 12, 2006. AP 9099 was approved in 2009 which extended APFO approval until 2/12/2016. The 2011 extension ordinance increased the expiration date to 2/12/2019.

ANALYSIS

The principle issues associated with this revision to the previously approved Preliminary Plan are achieving the most appropriate design of the private drive (Westview Drive extended) as well as the overall design for the 6 proposed commercial lots.

Staff worked with the Applicant to design the private road as close to the public road standards as possible while still achieving a smaller pedestrian oriented “town center” scale and feel internal to the site. A right-in/right-out access with MD 85 was proposed and will be dedicated to public use and includes a right of access easement to provide access for the parcel to the south of the site.

The overall design of the development is crucial and it must relate well to nearby projects as well as MD 85. The buildings to be developed on lots 106, 107, 108, 109, and 111 will likely face the private street;

therefore, at the time of site development plan review on-site parking should be placed to the side and rear of the buildings to maximize the “town center” focus.

Rear facades facing MD 85 are somewhat incongruous with other developments in this area and therefore improved rear facades and/or enhanced landscaping along MD 85 will help to align this proposal with existing development to the north of the site.

In addition, developing lots 106 and 109 with buildings that include double facades (one facing the private drive and one facing Executive Way/Shared Drive) will enhance these efforts.

The building restriction lines for Lots 110 and 111 were also adjusted in order to keep all building areas outside of the 100 year Floodplain and the 25 foot floodplain buffer.

Subdivision Regulations – Chapter §1-16: The present Preliminary Subdivision Plan is a revision to the previously approved Preliminary Subdivision Plan. This application meets the requirements of the subdivision regulations in Chapter §1-16 as well as the requirements listed in the pre 11-20-2010 version of the MXD Zoning Code §1-19-10.500 subject to ordinance 01-15-289.

1. Article I: In General - § 1-16-12 *Public Facilities*

(B) Road Adequacy

- All proposed lots will have frontage on a privately maintained road with continuously paved surfaces of at least 20 feet in width.
- All of the proposed lots will take access from the proposed private drive, known as Westview Drive (extended). The proposed private drive will gain access from the existing minor arterial road Executive Way, which connects MD 85 with New Design Road. The proposed private drive will terminate in another shared drive that will run east/west, between the Westview property and the Russell property. The proposed private Westview Drive (extended) will have a continuous 5 foot wide sidewalk on both sides as well as on-street parking on the east side. There is a right-in/right-out ingress/egress onto MD 85 which is proposed at the southern end of the site. This access point will be dedicated to public use, and will provide an eventual shared access into the Russell Property.

(C) Water and Sewer Facilities

- The property is classified W3/S3 on the Frederick County Water and Sewerage Master Plan indicating improvements to, or construction of, publicly-owned sewerage or water systems are planned within a 4 to 6 year time period. After a S-3/W-3 classification has been granted, an application may be submitted to the Maryland Department of the Environment for Water and/or Sewerage construction permits, as applicable.

2. Article IV: Required Improvements - §1-16-109 *Street, Common Driveway, and Sidewalk Construction:*

- The proposed Preliminary Plan includes 5' sidewalks along both sides of the proposed private Westview Drive (extended). The Applicant is also proposing crosswalks across Executive Way which will give pedestrians access to the Ballenger Creek Trail way.
- Sidewalks will also be provided into each individual lot as each specific use receives Site Development Plan approval.

3. Article VI: Design Standards and Requirements

§ 1-16-217. *Land Requirements:*

- The designated land use in the Comprehensive Plan for the site is Office/Research Industrial. The proposed subdivision is within a Community Growth Area, and is consistent with the “Community Concept” of development as described in the Comprehensive Plan.
- This tract of land is adjacent to MD 85 and Executive Way both of which are existing arterial roadways. The proposed Westview Drive extended will be constructed close to public spine standards and dedicated to public use, although it will be privately maintained.
- The existing topography is the basis for the overall layout, with the higher elevations delineated as areas of development, and the lower elevations delineated as undeveloped areas to be maintained in a more natural state.
- This site has met all of the size requirements for the MXD District as well as the permitted uses throughout the 100 series lots.

§ 1-16-218. *Block Shape:*

- No block dimension is greater than 1800 feet. Pedestrian walkways provided.

§ 1-16-219. *Lot Size and Shape:*

- All setback, buffer area and right-of-way requirements for the different land uses within the MXD shall be determined by the Planning Commission with consideration given to applicable standards for similar uses in existing zoning districts. Flexibility in the application of these setback, buffer and right-of-way requirements may be allowed by the Planning Commission to achieve excellence of design, an appropriate mix of the elements of the MXD, the efficient use of land and the provision of suitable amenities for the MXD neighborhood. There will be no minimum lot areas or lot widths required within the MXD.
- The proposed Preliminary Plan adheres to the lot dimensions that were reviewed and approved by FCPC as part of prior Phase II approvals for the Westview South MXD.
- Panhandle Lots 110 & 111 Modification: Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that “excellence of design” will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine “excellence of design” based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.

The Applicant has submitted a panhandle modification statement which is attached as Exhibit #3. The Applicant has proposed arrangements of walkable, pedestrian friendly commercial lots are the panhandle arrangement for Lots 110 and 111 are critical in order for the design to function in accordance with the MXD design standards.

Lot 110 has a 50' wide fee simple road frontage on MD 85, although the parcel will

gain access from the proposed Westview Drive extended as well as the proposed shared drive on the southern side of the site.

Lot 111 has a 50' wide fee simple road frontage on Executive Way, this parcel will also gain access from the proposed Westview Drive extended, as well as a shared access drive with the adjacent Lot 110. Due to environmental constraints associated with Ballenger Creek and its floodplain along the western border of the property the lot lines are fixed. The proposed design enhances the overall feel of the proposed center with open space and landscaping, rather than leaving this area for parking for pad sites.

Staff supports this panhandle modification request for the proposed Lots 110 and 111 in accordance with §1-16-219.C.2.

§ 1-16-220 Floodplain Development:

- Ballenger Creek runs along the northwestern portion of the 9.84 acre tract. 100 year Floodplain areas extend along the northern boundary of Lots 110 and 111. The lot setbacks have been adjusted to keep the building envelopes outside of the floodplain and its 25' buffer.
- The site is mostly free of vegetation with the exception of the 100/yr Floodplain areas along the northwestern parcel boundaries. There are large trees throughout the floodplain as well as the preserved 25 foot buffer.

§ 1-16-235. Right-Of-Way and Paved Surface Widths:

- 30' right-of-way provided for local streets. In accordance with 1-16-235.D.3 *Where topographic, transitional (from one property to another) or ownership problems are anticipated to occur, it may not be desirable or possible to meet all the improvement standards of the Design Manual. The Division may approve modifications to the requirements of the Design Manual in order to accomplish the intent and purpose of these regulations, with the exception of modifications to the separation requirements which shall be granted only by the Planning Commission;* Staff has approved a modification in the right-of-way width, in order to construct the private drive close to public spine roadway standards while still maintaining a "town center" design and feel to the private drive. The proposed drive will have two 11' travel lanes with 8' wide parallel parking along the southern side of the street. Proposed paved surface width is adequate for anticipated commercial uses.

4. Driveway Entrance Spacing Policy

Adopted by the FCPC in 2002 (amended 2004), this policy provides a system of evaluating driveway locations for public safety, to preserve rural character of roads located in rural parts of the County, and allowing tighter spacing in areas of the County designated for denser development. Proposed driveways have no spacing restrictions.

Stormwater Management – Chapter §1-15.2: Stormwater management has been provided through an existing approved regional pond (AP#2588). A surface sand filter provides water quality requirements. A waiver of channel protection volume was granted on 8/3/05. Mass grading (AP#2588), was approved on July 22, 2005, and amended for stormwater management AP#12688, on July 2, 2012.

APFO – Chapter §1-20: Adequate public facilities ordinance was approved by the FCPC on September 14, 2005, see attached Exhibit #2, due to County extension ordinances in 2009 and 2011, the approval date was extended until February 12, 2019.

Forest Resource – Chapter §1-21: FRO was reviewed and approved for this tract under AP# 7278.

Historic Preservation – Chapter §1-23: There are no historic resources located on this site.

Agency Comments

<i>Other Agency or Ordinance Requirements</i>	<i>Comment</i>
<i>Development Review Engineering (DRE):</i>	Conditional Approval
<i>Development Review Planning:</i>	Address all agency comments as the plan proceeds through to completion
<i>State Highway Administration (SHA):</i>	Conditional Approval
<i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i>	Conditional Approval
<i>Health Dept.</i>	Conditional Approval
<i>Office of Life Safety</i>	Approved
<i>DPDR Traffic Engineering</i>	Approved
<i>Historic Preservation</i>	N/A

RECOMMENDATION

Staff has no objection to conditional approval of this Preliminary Plan. If the Planning Commission conditionally approves the Preliminary plan, the Preliminary plan is valid for a period of three (3) years from the date of Planning Commission approval.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable zoning, APFO, and FRO requirements once the following conditions are met:

1. Address all agency comments as the plan proceeds through to completion.
2. Development of 100 series lots 106 through 110 of the Preliminary Plan for Westview South shall comply with ordinance 01-15-289 as the plan proceeds through to completion.
3. Approval of the requested panhandle modification in accordance with §1-16-219.C.2 for Lots 110 and 111.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE** Preliminary Plan S-905, AP 13359 **with conditions** as listed in the staff report for the proposed 6 lot subdivision plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.



Division of Permitting and Development Review
FREDERICK COUNTY, MARYLAND

Winchester Hall 12 East Church Street Frederick, Maryland 21701 (301) 694-1134

ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING

Westview South Office/Research Center

In General

The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Old Chapel Corp. ("Applicant"), or assigns, sets forth the conditions and terms that the Commission deems to be the minimum necessary road and water/sewer improvements that must be in place for the property below to be developed, in compliance with 1-20-9 of the Adequate Public Facilities Ordinance ("APFO") as adopted on October 15, 1991 and most recently amended on June 12, 2001, and the approved development plans for the Applicant.

These improvements and timetable are in response to a Developer Option Letter (DOL) dated November 5, 2003. The Applicant hereby agrees and understands that unless the below-described improvements are in place, or are the subject of executed Public Works Agreements ("PWA's") supported by guarantees in the County-approved form, development will not be permitted to proceed unless the Commission approves a revised Letter.

This Letter concerns itself with a Mixed-Use Development project known as *Westview South Office/Research Center* ("Project")—having a land use mix composed of retail, business services, office and research and development. The Project comprises 1,626,550 square feet. The proposed total square footage of the Project has a previously approved construction-phasing schedule; and, is located on Parcel 3, Tax Map 86, containing an area measuring 200.7 acres. The Project is located between Md. Rt. 85 and New Design Road at the intersection of Executive Way and is zoned MXD – Mixed Use Development. This property was reviewed for compliance with the APFO anticipating a development of 1,626,550 square feet mixed development.

The land use mix utilized to model the Project is proposed to be constructed over three phases as follows: Phase I: 265,800 square feet of retail/business services/office/research and development (equivalent trips of 746 total a.m. trips and 959 p.m. peak trips); Phase II: 874,350 square feet of retail/business services/office/research and development (equivalent additional trips of 838 total a.m. peak trips and 786 p.m. trips); Phase III: 486,400 square feet of retail/business services/office/research and development (equivalent additional trips of 464 a.m. peak trips and 441 p.m. peak trips). As set forth below, infrastructure improvements have been identified for each phase of development in order to ensure that public facilities are adequate for each phase of development (based upon total "trips" for each phase) and to otherwise ensure that the conditions of the Zoning Approval are satisfied. It shall be the burden of the Applicant to demonstrate, in conjunction with subsequent site plan approval, recordation of plats and application for building permits and use and occupancy certificates,

that the total trip allocation for each phase will not be exceeded based upon actual uses approved, constructed and occupied.

The APFO approval will be for a period of ten (10) years from the date of the Commission's APFO approval, which is February 12, 2003. This approval will remain valid until February 12, 2013. Applicant agrees to install and/or bond for construction the following improvements:

Water and Sewer Improvements

The Project is currently classified in the County's sewer and water categories as: W-1 (existing water service) and W-3 Developer (water service construction within 3 years by developer); and S-1 (existing sewer service) and S-3 Developer (sewer construction within 3 years by developer).

The proposed water system to serve the Project will consist of a network of both public and private water mains and service connections. These proposed mains and service laterals will connect to existing adjacent public water systems. In several instances, the new connections will provide overall improvements in the form of system "loops" of existing dead-end lines. Additionally, the proposed Executive Way roadway extension will provide a public right-of-way corridor for the construction of a water-system loop between existing mains in New Design Road and those in Maryland Route 85.

Sanitary Sewer Lines will be connected to existing public sewer lines at six separate locations in order to adequately serve the Project. All six proposed points of connection are located within the property lines of the Project and do not require off-site easements and/or improvements.

The Commission determined that the public water and sewer facilities proposed to serve the property appear adequate at this time for this development. However, capacity is not guaranteed until purchased. APFO approval for water and sewer does not guarantee that plats will be recorded and building permits issued. Plat recordation and building-permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 (of Subdivision Regulations). Plats cannot be recorded until water and sewer improvements to the property line (or *proposed* property lines, e.g., subdivision) are available within ninety (90) days of completion.

Schools

As this Project is a non-residential MXD, there will be no residential uses and thus no impacts on the public school system. Nevertheless, a 22± acre school/public use parcel is required to be dedicated to public use by the Applicant pursuant to conditions of the Zoning Approval.

Transportation Improvements

The transportation improvements identified below are based upon transportation analyses prepared and submitted to Frederick County by Wells and Associates dated August 9, 2002, pursuant to APFO requirements, as amended pursuant to negotiations and agreements between the Maryland State

Highway Administration ("SHA") and the Applicant subsequent to Preliminary Plan approval.¹ The improvements required for APFO approval are shown on the Developer Option Phased Improvements Plan attached hereto as Attachments "Developer Option Phased Improvements" "Sheets 1 of 2 and 2 of 2", and the amended improvements to the State roads per agreement with SHA are shown on the Route 85 Improvement Exhibit attached hereto as Attachment "Sheet 17a of 17" (with APFO improvements shown in red and the additional State road improvements agreed to by the Applicant shown in green).

Phase I:

Prior to issuance of occupancy permits for Phase I improvements, the following transportation improvements shall be "substantially completed" (these improvements being shown in blue on the Developer Option Phased Improvements Plan):

1. Maryland Route 85/Crestwood Boulevard: the existing southbound right turn lane on Maryland Route 85 will be converted to a third southbound through lane by constructing a new southbound free-flow right turn lane and providing an acceleration lane on westbound Crestwood Boulevard (including signal changes, if necessary). Pursuant to the agreement with SHA, this new southbound lane will extend to approximately Station 14+00 as shown on the Route 85 Improvement Exhibit. The current acceleration lane on southbound Maryland Route 85 from Crestwood Boulevard will be converted to a third southbound thru lane on Maryland Route 85, and a separate eastbound thru lane on Crestwood Boulevard will be created by adding a third duplicated left turn lane from Crestwood Boulevard to northbound Maryland Route 85, including any necessary changes to signalization;
2. Maryland Route 85/Pegasus Court: to facilitate right-in, right-out access to the site entrance opposite Pegasus Court, a southbound right turn lane on Maryland Route 85 to the site entrance and a southbound Maryland Route 85 acceleration lane from the site entrance and continuing as a right turn only lane to Executive Way will be constructed;
3. Construct a new southbound right turn lane on Maryland Route 85 at the Westview Entertainment/SHA intersection (per agreement with SHA);
4. Westview Drive Extension: within the limits of the property, Westview Drive will be extended from its current terminus within the Westview Entertainment Center to proposed Executive Way Extension;
5. Maryland Route 85/Executive Way: Executive Way Extension, from Westview Drive to Maryland Route 85, will be constructed as a 4-lane typical section road (accepting the southbound Maryland Route 85 right turn lane from Pegasus Court), including double eastbound left turn lanes to northbound Maryland Route 85 (per agreement with SHA) and a separate thru/right turn lane approach to Maryland Route 85; a northbound Maryland Route 85 separate left turn lane onto Executive Way Extension will be constructed;
6. A traffic signal to regulate the intersection of Executive Way and Maryland Route 85 shall be designed and constructed if and when warranted;
7. New Design Road/Executive Way Extension: Executive Way Extension will be constructed

1 At the time of Preliminary Plan and APFO approval by the Planning Commission, certain road improvements involving State roads were agreed to by the Applicant after discussions with SHA. These improvements were unrelated to the County APFO review, but were nevertheless included and documented by previous DOLs for consistency and clarity. Subsequent to Preliminary Plan and APFO approval, SHA amended the scope of the previously agreed upon improvements, and the Applicant and SHA have now agreed upon a revised scope of improvements. While none of this impacts the APFO findings, this Letter of Understanding is now amended to reflect the revised scope again for consistency and clarity. Enclosed herewith as Attachment "1-a" and "1-b" an exchange of correspondence between the Applicant's consultants and SHA summarizing the agreed upon revisions to the scope of State road improvements.

from the future (Phase II) extension of International Drive to New Design Road as a 4-lane typical section providing separate right turn and left turn lanes at New Design Road. A northbound right turn lane on New Design Road to Executive Way Extension and a southbound left turn lane from New Design Road to Executive Way Extension will be constructed;

8. Signalization of the intersection of New Design Road and Executive Way Extension, if and when warranted, will be designed and constructed by the Applicant;
9. New Design Road/Robin Drive/South Site Entrance: to accommodate a site entrance opposite Robin Drive, a southbound left turn lane from New Design Road to the site entrance will be constructed. The site entrance will exit as a combined left/thru/right turn lane;
10. Corporate Drive/New Design Road: pursuant to a condition of the Zoning Approval, (a traffic signal warrant analysis having been performed and demonstrating a need for signalization for the intersection of Corporate Drive and New Design Road), the Applicant will contribute a pro rata share (with other development projects approved which impact this intersection) towards signalization (allocated at a share of 55% responsibility of Applicant by the County Traffic Engineering Section as of approval of the Preliminary Plan, which allocation percentage shall be finalized based upon other approved projects at time of payment); and
11. Corporate Drive/Office Entrance: Provide improvements as necessary to accommodate a separate westbound left turn lane on Corporate Drive. Provide single lanes for entering and exiting traffic.

Phase II:

Prior to issuance of occupancy permits for Phase II improvements, the following transportation improvements shall be "substantially completed" (these improvements being shown in deep purple on the Developer Option Phased Improvements Plan):

1. Executive Way Extension: Executive Way Extension (per the condition of the Zoning Approval) will be completed as a 4-lane typical section roadway between Westview Drive and International Drive, including a bridge crossing over Ballenger Creek. Executive Way Extension shall be fully designed and approved by all necessary agencies, before the issuance of a building permit for the 300,001 square foot of development, including a guarantee by Applicant of such improvements by a letter of credit or other surety acceptable to Frederick County, securing the completion of this road project. The entire Executive Way Extension roadway shall be completed before the occupancy of a total of 500,000 square feet of development of the Project; and
2. International Drive Extension: International Drive will be constructed from Executive Way Extension south to the current terminus of International Drive within the Wedgewood Industrial Park.

Phase III:

Prior to issuance of occupancy permits for Phase III improvements, the following transportation improvements shall be "substantially completed" (these improvements being shown in red on the Developer Option Phased Improvements Plan):

1. Maryland Route 85/Pegasus Court/Site Entrance: Convert Pegasus Court at the Maryland Route 85 intersection to create a channelized island at Pegasus Court (a "pork chop") and adding a raised median on Maryland Route 85 to prohibit southbound left turn movements from Maryland Route 85 to Pegasus Court (all per agreement with SHA). The existing westbound right turn lane from Pegasus Court to northbound MD Route 85 will be converted to a free-flow right turn lane by providing an acceleration lane connecting to the existing terminus point of the third northbound thru lane on Maryland Route 85 (being constructed by others);

- and
2. Maryland Route 85/South Site Entrance: the southern entrance for the Project (and located to provide joint access to the adjoining property to the south of the Project if right-of-way is made available by that adjoining property owner at no cost to the Applicant – if not, the access will shift entirely to the Applicant's property) will be constructed as a right-in/right-out intersection (per agreement with SHA) with a channelized island ("pork chop") to facilitate the right-in/right-out only movement and a southbound right turn lane will be constructed on Maryland Route 85.

Conclusion

Public Works Agreements will accompany the improvement plans for these infrastructure improvements, and appropriate surety will be provided by the Applicant fully guaranteeing the timely completion of the infrastructure improvements (as to be provided for in the public works agreements).

The effective date of this Letter of Understanding for the APFO approval shall be February 12, 2003 and shall remain valid through February 12, 2013.

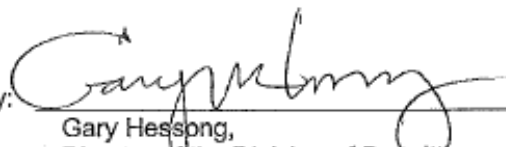
Old Chapel Corporation

By:  September 8, 2005
Date

Frederick County Planning Commission

By:  September 14, 2005
Al Duke, Chairman Date

Attest

By:  9-20-05
Gary Hessong, Date
Director of the Division of Permitting and
Development Review

KLM
9/20/05



April 25, 2013

Tolson DeSa
Frederick County Development Review
30 N. Market Street
Frederick, MD 21701

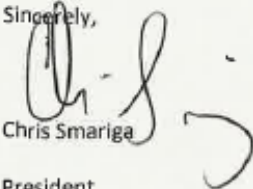
Re: Panhandle Modifications – Westview South 100 Series Lots
HSA Job No. 7281

Dear Tolson:

In order to create a successful arrangement of walkable, pedestrian friendly commercial spaces along the 100 series lots in Westview South it is critical that we use panhandles for lots 110 and 111. The entire parcel is odd shaped and relatively narrow. There are predetermined access points on Executive Way (aligning with Westview Drive) and a constructed right in/out on Route 85. To efficiently and effectively route traffic through the site, we have established a private boulevard that will serve as the Main Street for the project. By aligning this Main Street with current access points it creates some odd shaped parcels along the western boundary of the site (Lot 110 and 111). Due to the environmental constraints associated with Ballenger Creek and its floodplain on the western side of the site, the lot lines in this western location are also fixed. Rather than leave this area as parking for pad sites, there was an opportunity to develop them in a manner which would enhance the center and allow us to create a Main Street Boulevard rather than a typical retail strip or pad center. We believe this will enhance the aesthetics of the center and create a more desirable shopping destination. As I previously mentioned, to achieve this we needed panhandles for lots 110 and 111 but the Main Street will be owned by the association and give everyone the impression that all lots front on the Main Street. Reliable, safe access to the lots will be provided and the center will be more aesthetically pleasing. We will also be meeting smart growth goals by efficiently using infill land in the entire MXD and encouraging a pedestrian oriented experience.

We look forward to discussing this with the Planning Commission at the hearing.

Sincerely,



Chris Smariga

President

CC: Karl Morris

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